

BILL ANALYSIS

C.S.H.B. 2567
By: Bailes
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that much has changed with regard to policy and procedure since the last revision of forest pest control policy decades ago. C.S.H.B. 2567 seeks to address this issue by updating and revising statutory forest pest control provisions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2567 amends the Natural Resources Code to revise forest pest control provisions. The bill redefines "forest pests," "forest land," and "infestation" and repeals the definition of "tract." The bill revises provisions relating to the distribution of procedures to be followed for the control of an infestation. The bill authorizes a specific control measures notice to be given by posting notice on the county's website or on an applicable bulletin board in the county courthouse if the identity or address of the applicable landowner or person having control of the forest land is unknown.

C.S.H.B. 2567 replaces the requirement for the Texas A&M Forest Service to keep informed of what is done by a landowner to take measures to control an infestation and the result of it with a requirement for the landowner to inform the service of measures taken by the landowner to control the infestation and the results of those measures. The bill replaces the requirement that representatives of the service enter land and have forest pests controlled or destroyed if pest control measures prescribed by the service are not applied by the landowner or any other person within a certain timeframe with an authorization for the service to contact the landowner to offer further assistance or to enter the land and have the forest pests controlled if the landowner or another person fails to apply the pest control measures prescribed by the service within a certain timeframe. The bill requires the service to charge a landowner amounts consistent with current commercial rates for control measures taken and removes the requirement that the cost of control be borne by the service if the tract with respect to which the service conducted control measures contains 50 acres of forest land or less and the landowner in whose name the record title to the land stands owns no more than 50 acres of forest land in the county in which the infestation occurred. The bill removes the \$10 cap, for each infested acre or part of an acre on which control measures have been employed, on the costs for control measures taken by the service that constitute a legal claim against a landowner.

C.S.H.B. 2567 repeals Section 152.003(9), Natural Resources Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2567 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 152.001, Natural Resources Code, is amended.

SECTION 1. Same as introduced version.

SECTION 2. Sections 152.003(1), (2), (3), (6), and (7), Natural Resources Code, are amended to read as follows:

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(1) "Service" means the Texas A&M Forest Service.

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(2) "Forest pests" means native insects and diseases and nonnative invasive insects, diseases, and plants that are harmful, injurious, or destructive to forests or trees and whose damage, if uncontrolled, is of considerable economic and environmental importance [~~-, and includes:~~

(2) "Forest pests" means native insects and diseases, nonnative invasive insects and diseases, and noxious and invasive plants included on a list under Section 71.151, Agriculture Code, that are harmful, injurious, or destructive to forests or trees and whose damage, if uncontrolled, is of considerable economic and environmental importance [~~-, and includes:~~

~~[(A) pine bark beetles of the genera Dendroctonus, Ips, Pissodes, and Hylobius;~~

~~[(A) pine bark beetles of the genera Dendroctonus, Ips, Pissodes, and Hylobius;~~

~~[(B) sawflies of the genus Neodiprion;~~

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~~[(C) defoliators in the genera Datana, Malacosoma, Hyphantria, Diapheromera, and Galerucella;~~

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~~[(D) pine shoot moth of the genus Rhyacionia;~~

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~~[(E) wilt of the genus Chalora; and~~

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~~[(F) rots of the genera Fomes and Polyporus].~~

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(3) "Forest land" means land with at least 10 percent cover by live trees of any size, including land that formerly had that amount of tree cover and will be naturally or artificially regenerated [~~on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city].~~

(3) "Forest land" means land with at least 10 percent cover by live trees of any size, including land that formerly had that amount of tree cover and will be naturally or artificially regenerated [~~on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city].~~

(6) "Infestation" means actual infestation or infection at conditions beyond normal

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proportion causing ~~[abnormal epidemic]~~ loss to forests ~~[present or future commercial timber supply or both]~~.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under the person's ~~[his]~~ direction irrespective of ownership.

SECTION 3. The heading to Subchapter B, Chapter 152, Natural Resources Code, is amended.

SECTION 4. Section 152.016, Natural Resources Code, is amended to read as follows:

Sec. 152.016. PROCEDURES FOR CONTROL. ~~[(a)]~~ As soon as practicable after determining that an infestation exists ~~[the hearing]~~, the service shall promulgate procedures to be followed for the control of the infestation ~~[and shall:~~

~~[(1) mail a copy to all appearing at the hearing and to all to whom notices were originally sent; and~~

~~[(2) publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice.~~

~~[(b) Publication as provided in Subsection (a) of this section is notice to each landowner and each tract of land in the affected area on the date of publication].~~

SECTION 5. Sections 152.018(a), (b), and (c), Natural Resources Code, are amended to read as follows:

(a) The service shall notify each ~~[notice required by Section 152.017 of this code shall inform the]~~ landowner required to implement control measures of:

- (1) the facts found to exist;
- (2) the landowner's ~~[his]~~ responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal delivery to ~~[service on]~~ the landowner or ~~[on]~~ the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at that person's ~~[his]~~ last known

proportion causing ~~[abnormal epidemic]~~ loss to forests ~~[present or future commercial timber supply or both]~~.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under the person's ~~[his]~~ direction irrespective of ownership.

SECTION 3. Same as introduced version.

SECTION 4. Section 152.016, Natural Resources Code, is amended to read as follows:

Sec. 152.016. PROCEDURES FOR CONTROL. ~~[(a)]~~ As soon as practicable after the hearing, the service shall promulgate procedures to be followed for the control of the infestation and shall:

~~[(1) mail a copy to all appearing at the hearing and to all to whom notices were originally sent; and~~

~~[(2) publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice.~~

~~[(b) Publication as provided in Subsection (a) of this section is notice to each landowner and each tract of land in the affected area on the date of publication.]~~

SECTION 5. Sections 152.018(a), (b), and (c), Natural Resources Code, are amended to read as follows:

(a) The notice required by Section 152.017 ~~[of this code]~~ shall inform the landowner of:

- (1) the facts found to exist;
- (2) the landowner's ~~[his]~~ responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal delivery to ~~[service on]~~ the landowner or ~~[on]~~ the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at that person's ~~[his]~~ last

address; or

(3) if the identity or [person or his] address of the landowner or person having control of the forest land is unknown:

(A) [;] publication in one issue of a newspaper of general circulation in the county in which the land is located; or

(B) posting notice on the county's Internet website or on a bulletin board at a place convenient to the public in the county courthouse for the county in which the land is located.

(c) A published or posted notice under Subsection (b) must ~~[of this section shall]~~ include the information specified in Subsection (a) ~~[of this section]~~, state the name of the owner, if known, and briefly describe the land to which the notice applies.

SECTION 6. Section 152.019, Natural Resources Code, is amended.

SECTION 7. Section 152.020(a), Natural Resources Code, is amended.

SECTION 8. Section 152.021, Natural Resources Code, is amended to read as follows:

Sec. 152.021. CONTROL MEASURES APPLIED BY ~~[FOREST]~~ SERVICE. If the landowner or another person fails to apply the pest control measures prescribed by the service not later than the 10th day after the date ~~[are not applied by the landowner or any other person within 10 days from the time]~~ notice is given under Section 152.018, [as provided in this chapter, exclusive of the date the notice is given, representatives of] the service may contact the landowner to offer further assistance or may [shall] enter the land and have the forest pests controlled ~~[or destroyed]~~.

SECTION 9. Section 152.022, Natural Resources Code, is amended.

SECTION 10. Section 152.023, Natural Resources Code, is amended.

SECTION 11. Section 152.025, Natural Resources Code, is amended.

SECTION 12. Section 152.061, Natural

known address; or

(3) if the identity or [person or his] address of the landowner or person having control of the forest land is unknown:

(A) [;] publication in one issue of a newspaper of general circulation in the county in which the land is located; or

(B) posting notice on the county's Internet website or on a bulletin board at a place convenient to the public in the county courthouse for the county in which the land is located.

(c) A published or posted notice under Subsection (b) must ~~[of this section shall]~~ include the information specified in Subsection (a) ~~[of this section]~~, state the name of the owner, if known, and briefly describe the land to which the notice applies.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Section 152.021, Natural Resources Code, is amended to read as follows:

Sec. 152.021. CONTROL MEASURES APPLIED BY ~~[FOREST]~~ SERVICE. If the landowner or another person fails to apply the pest control measures prescribed by the service not later than the 10th day after the date ~~[are not applied by the landowner or any other person within 10 days from the time]~~ notice is given under Section **152.014** or 152.018, [as provided in this chapter, exclusive of the date the notice is given, representatives of] the service may contact the landowner to offer further assistance or may [shall] enter the land and have the forest pests controlled ~~[or destroyed]~~.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

Resources Code, is amended.

SECTION 13. Section 152.062, Natural Resources Code, is amended to read as follows:

Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later than the 10th day after the date [~~Within 10 days after~~] notice is given under [~~as provided in~~] Section [~~152.014 or~~] 152.018 [~~of this code, exclusive of the date the notice is given~~], each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

SECTION 14. Section 152.063(a), Natural Resources Code, is amended.

SECTION 15. Section 152.064, Natural Resources Code, is amended to read as follows:

Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the name and address [~~names and addresses~~] of each [~~the~~] forest owner not later than the 10th day after the date the landowner receives [~~within 10 days after receiving the~~] notice from the service under [~~as provided for in~~] Section [~~152.014 or~~] 152.018 [~~of this code~~].

SECTION 16. Section 152.105, Natural Resources Code, is amended.

SECTION 17. Sections 152.003(9), 152.012(c), 152.014, 152.015, and 152.017, Natural Resources Code, are repealed.

SECTION 18. This Act takes effect September 1, 2017.

SECTION 13. Section 152.062, Natural Resources Code, is amended to read as follows:

Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later than the 10th day after the date [~~Within 10 days after~~] notice is given under [~~as provided in~~] Section 152.014 or 152.018 [~~of this code, exclusive of the date the notice is given~~], each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

SECTION 14. Same as introduced version.

SECTION 15. Section 152.064, Natural Resources Code, is amended to read as follows:

Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the name and address [~~names and addresses~~] of each [~~the~~] forest owner not later than the 10th day after the date the landowner receives [~~within 10 days after receiving the~~] notice from the service under [~~as provided for in~~] Section 152.014 or 152.018 [~~of this code~~].

SECTION 16. Same as introduced version.

SECTION 17. Section 152.003(9), Natural Resources Code, is repealed.

SECTION 18. Same as introduced version.